

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:06-CR-0150
	:	
v.	:	(Judge Conner)
	:	
FRANCIS K. REYES,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 15th day of January, 2010, upon consideration of defendant's motion (Doc. 153) requesting reconsideration of the judgment in the above-captioned case pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure,¹ and it appearing that defendant claims that his sentence was improper because of fraud upon the court,² and that the court should set aside the judgment in the above-captioned case, and the court concluding that Rule 60(b)(6) does not entitle

¹ Defendant invokes a rule of civil procedure in his effort to overturn a judgment in a criminal case. (See Doc. 133). Defendant explicitly states that he brings the pending motion pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure, and he denies that it is a motion under 28 U.S.C. § 2255. (See Doc. 153 at 4). The court notes that defendant has already filed one motion under § 2255 and would be precluded from filing a second one. (See Docs. 140, 145); see also 28 U.S.C. § 2255(h); R. GOVERNING § 2255 CASES R. 9 (providing that a "second or successive motion" under § 2255 may be filed only with authorization from the appropriate court of appeals).

² Defendant avers that he "received a two level enhancement for obstruction of justice, which was requested by the government, because the government claimed that [he] was attempting to deceive the court and the government as to his real name." (Doc. 153 at 2). Defendant does not dispute that an alias, Henry Castillo, appeared in his indictment and plea agreement, but he contends that his attorney directed him to sign the plea agreement using his alias. (Id.) He also argues that "the government knew that Henry Castillo was an alias and that [his] real name was Francis K. Reyes, well before [he] ever entered into any plea agreement or negotiation." (Id. at 3).

defendant to the relief he seeks, it is hereby ORDERED that the motion (Doc. 153)
is DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge